1 2 3 4 5 6 **UNITED STATES DISTRICT COURT** 7 WESTERN DISTRICT OF WASHINGTON IN SEATTLE 8 9 JUSTIN DAVID SHERRARD, an NO. 10 Individual. 11 Plaintiff, **COMPLAINT FOR NEGLIGENCE** 12 VS. 13 YVONNE R. GRAY and IAN M. GRAY; 14 and the marital community composed thereof; UNITED STATES of AMERICA. 15 and UNITED STATES POSTAL SERVICE, a governmental entity. 16 Defendants. 17 18 COMES NOW Plaintiff JUSTIN SHERRARD by and through his attorney of 19 record and complains and alleges as follows: 20 21 I. PARTIES 22 At all times relevant hereto Plaintiff was a resident of Flathead County, 1.1 23 Montana. 24 25 26 **COMPLAINT** -- 1 **BURI FUNSTON** MUMFORD FURLONG ATTORNEYS AT LAW

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1.2 Defendant UNITED STATES OF AMERICA created Defendant UNITED STATES POSTAL SERVICE ("USPS") as an independent establishment of the executive branch, which was created and governed by the Postal Reorganization Act, 39 U.S.C. § 101 et seq. USPS was at all times a governmental entity chartered under the laws of the United States. USPS owned and operated the USPS postal annex that employed Defendants Yvonne R. Gray. USPS maintained control and direct oversight over its employees, including Yvonne Gray, and her respective chain of command, and at all relevant times was responsible for adopting, implementing, and/or enforcing the unlawful, unreasonable, unconstitutional, and/or discriminatory acts, omissions, policies, and customs referenced herein. At all relevant times, the United States and USPS were acting under the color of law.

II. JURISDICTION AND VENUE

2.1 This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1343, 2201, and 2202 and 39 CFR § 912.9. Venue is properly set in the United States District Court for the Western District of Washington at Seattle pursuant to 28 U.S.C. § 1391(b), since all defendants reside or resided in this district and the events giving rise to the claims occurred in this district.

III. FACTUAL ALLEGATIONS

- 3.1 Plaintiff hereby incorporates and re-alleges all allegations as previously stated.
- 3.2 On or about October 8, 2018, Plaintiff was a passenger in Robert Eskridge's vehicle.

- 3.3 U.S.P.S. postal carrier, Yvonne Gray, failed to stop at the intersection of Norway Drive and Church Road, in Ferndale, Washington, colliding with the front of Mr. Eskridge's vehicle, seriously injuring Plaintiff.
- 3.4 As a direct and proximate result of such negligence, the vehicle operated by Defendant caused a collsion in which the Plaintiff sustained injuries.
- 3.5 Said collsion was the direct and proximate cause of Plaintiff's injuries and damages alleged herein.

CAUSE OF ACTION IV. NEGLIGENCE

- 4.1 Plaintiff hereby incorporates and re-alleges all allegations as previously stated.
- 4.2 Defendants, by and through her agents, servants and employees, owed Plaintiff a duty of care to operate her motor vehicle in a reasonable and prudent manner.
 - 4.3 Defendants breached their duty of care to the Plaintiff as set forth above.
- 4.4 Defendants' breach of duty of care was the proximate cause of Plaintiff's injuries.
- 4.5 Defendants are liable to the Plaintiff for damages past, present, and future caused by Defendants' negligence.
- 4.6 Plaintiff was without negligence of any kind or nature whatsoever and did not contribute to his own injuries or damages in any way.
- 4.7 All defendants are jointly and severally liabile for the damages suffered by Plaintiff.

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- 4.8 There are no non-party "at fault" entities who are in any way or percentage "at fault" for this incident and/or for Plaintiff's injuries and damages. If Defendants allege that there are other non-named Defendants who are or may be potentially "at fault" for Plaintiff's injuries and damages, Defendants are at this time specifically requested to fully identify the same in Answer to Plaintiff's Complaint.
- 4.9 As a direct and proximate result of the negligence alleged herein, Plaintiff has incurred medical expenses and other out-of-pocket expenses and is entitled to fair and reasonable compensation.
- 4.10 As a direct and proximate result of the negligence alleged herein, Plaintiff has suffered and will continue to suffer severe physical pain and suffering and is entitled to fair and reasonable compensation.
- 4.11 As a direct and proximate result of the negligence alleged herein, Plaintiff has suffered severe mental and emotional distress and is entitled to fair and reasonable compensation.
- 4.12 As a direct and proximate result of the negligence alleged herein, Plaintiff has suffered loss of enjoyment of life, disability and is entitled to fair and reasonable compensation.
- 4.13 As a direct and proximate result of the negligence alleged herein, Plaintiff is entitled to attorneys' fees.
- 4.14 As a direct and proximate result of the negligence alleged herein, Plaintiff is entitled to prejudgment interest on all medical and other out-of-pocket expenses directly and proximately caused by the negligence alleged in this Complaint.

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V. PRAYER FOR RELIEF

WHEREFORE Plaintiff prays for the following relief:

- 5.1 For an award of damages compensating Plaintiff for his physical injuries in amount to be proven at trial.
- 5.2 For an award of damages compensating Plaintiff for past and future medical and out-of-pocket expenses, in an amount to be proven at trial.
- 5.3 For an award of damages compensating Plaintiff for past and future pain and suffering in an amount to be proven at trial.
- 5.4 For an award of damages compensating Plaintiff for past and future mental and emotional distress in an amount to be proven at trial.
- 5.5 For an award of the Plaintiff's attorney fees herein in an amount to be proven at trial.
- 5.6 For an award of damages compensating Plaintiff for costs and disbursements herein in an amount to be proven at trial.
 - 5.7 For such other and further relief as the court deems just and equitable.

DATED THIS day of August 2022.

BURI FUNSTON MUMFORD & FURLONG PLLC

Tom Mumford, WSBA #28652 Attorney for Plaintiff Justin Sherrard

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